

**IN THE UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

IN RE: LION AIR FLIGHT JT 610 CRASH

Lead Case No. 1:18-cv-07686

Hon. Thomas M. Durkin

This filing applies to  
Case No. 19-cv-07091 (*Smith*)

**UNOPPOSED MOTION TO STAY ROCKWELL COLLINS' AND ROSEMOUNT  
AEROSPACE'S RESPONSIVE PLEADING DEADLINE**

NOW COME Defendants, ROCKWELL COLLINS, INC. ("Rockwell Collins") and ROSEMOUNT AEROSPACE, INC. ("Rosemount Aerospace") (collectively "Defendants"), by and through their attorneys, FITZPATRICK, HUNT & PAGANO, LLP, and for their Motion to Stay The Responsive Pleading Deadline for the *Smith* case (19-cv-07091), states as follows:

1. This action arises from the October 29, 2018 crash of a Boeing 737 MAX 8 aircraft, operated by Lion Air as Lion Air Flight JT 610, which departed from Jakarta, Indonesia with an intended destination of Pangkal Pinang, Indonesia before entering the Java Sea shortly after takeoff.

2. The instant motion is brought with respect to the Second Amended Complaint for the *Smith* claim, Case No. 19-cv-07091, filed on May 17, 2022. [Dkt. #1378].

3. On December 20, 2022, this Court ruled that the *Chandra* and *Smith* Plaintiffs' claims are governed by the Death on the High Seas Act ("DOHSA") and that DOHSA does not provide Plaintiffs a right to a jury trial. [Dkt. #1460]. In light of its ruling, the Court gave the Plaintiffs the option of seeking to amend their operative Complaints within 21 days of the Order. [*Id.*] In response, these Plaintiffs sought a 30-day extension of this deadline (to February 10, 2023).

[Dkt. #1461]. Plaintiffs then expressed their intention to seek an interlocutory appeal pursuant to 28 U.S.C. § 1292(b), culminating in a January 17, 2023 status hearing.

4. At the status hearing, the Court ordered Defendants Rockwell Collins, Rosemount Aerospace, Xtra Aerospace, and Boeing to answer the *Chandra* and *Smith* Complaints by February 16, 2023. [Dkt. #1464]. The Court further ordered that no answers from the individual Defendants or the United States were due at this time. [*Id.*] The undersigned understands that the Court stayed the responsive pleadings of the individual Defendants and the United States, at least in part, because these Defendants anticipated filing motions to dismiss, and given the cases' procedural posture, it made sense to wait until the issue of the § 1292(b) certification, and potentially an appeal, was decided.

5. In preparing to answer the *Smith* Complaint, Rockwell Collins and Rosemount Aerospace determined that they could not answer the Complaint due to certain pleading defects and would need to file a Fed. R. Civ. P. 12(b)(6) Motion to Dismiss in lieu of an Answer. Due to the current procedural posture of the *Smith* case, Rockwell Collins and Rosemount Aerospace respectfully request that their responsive pleading deadline be stayed, in line with the Court's Order as to the individual Defendants and the United States.

6. Rockwell Collins and Rosemount Aerospace contend that a staying of the responsive pleading deadline is necessary given the procedural posture; namely, the outstanding issue of the potential § 1292(b) certification. It is simply unknown at this time whether the operative Complaint will ultimately stand or will be amended given the Court's DOHSA ruling. Little would be gained by having these Defendants file their Rule 12(b)(6) Motion to Dismiss and then wait until the § 1292(b) certification request is decided (and then potentially an appeal) to determine whether the Motion is targeting the operative Complaint. Instead, these Defendants

request that their responsive pleading deadlines be held in abeyance until clarity is reached as to whether the operative Complaint will stand or be amended.

7. In the alternative, should the Court prefer that Rockwell Collins and Rosemount Aerospace still file their responsive pleadings while the § 1292(b) certification issues are being resolved, these Defendants request an additional 46 days to file their responsive pleadings, to April 3, 2023. This date will align with the extension being sought by Defendants to answer the *Chandra* and Smith Complaint. [See Dkt. #1478]. This would be the first extension of time to answer or otherwise respond to *Smith's* Second Amended Complaint.

8. No party to this action will be prejudiced by the requested extension, which has not been brought for purposes of delay.

9. Plaintiff's counsel does not oppose this motion.

WHEREFORE, for the reasons stated above, Rockwell Collins and Rosemount Aerospace respectfully request that this Court enter an Order staying its responsive pleading deadline for the *Smith* case (19-cv-07091), or, in the alternative, extending its time to file its responsive pleading by 46 days to April 3, 2023.

Dated: February 14, 2023

Respectfully submitted,

**Rockwell Collins, Inc.**  
**Rosemount Aerospace, Inc.**

By: s/ Shane B. Nichols  
*One of its Attorneys*

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**CERTIFICATE OF SERVICE**

I, Shane B. Nichols, certify that on February 14, 2023, I electronically filed the foregoing ***UNOPPOSED MOTION TO STAY ROCKWELL COLLINS' AND ROSEMOUNT AEROSPACE'S RESPONSIVE PLEADING DEADLINE*** with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to attorneys of record.

I certify under penalty of perjury that the foregoing is true and correct.

DATED this 14th day of February 2023.

By: /s/ Shane B. Nichols  
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